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Group Compares U.S. Soldiers to Nazis

**Are American Interests Being Disserved by the
International Committee of the Red Cross?**

Executive Summary

- The ICRC has delivered emergency relief supplies to hundreds of thousands of starving, diseased, and other conflict-affected people around the world. It also helped save American lives in two world wars. For this, the ICRC deserves praise and recognition.
- However, the ICRC under its current leadership appears to have lost its way by deviating from its core principles and adopting an approach toward the U.S. that not only appears to violate the organization's "impartiality" doctrine, but also clearly is in direct opposition to the advancement of U.S. interests. For this, the ICRC needs to be scrutinized and its actions addressed.
- Specifically, the ICRC has engaged in efforts to: reinterpret and expand international law so as to afford terrorists and insurgents the same rights and privileges as military personnel of States Party to the Geneva Conventions; lobby for arms control issues that are not within the organization's mandate; and inaccurately and unfairly accuse the U.S. of not adhering to the Geneva Conventions, when the ICRC itself has demonstrated reluctance to ensure that Geneva Convention protections are afforded to U.S. prisoners of war.
- Neither the American Red Cross nor any other national Red Cross or Red Crescent Society is consulted by the ICRC or is in any way involved in the ICRC's policy decisions and statements.
- The U.S. government has remained the ICRC's single largest contributor since its founding. Since 1990, the U.S. government has provided more than \$1.5 billion in funding to the ICRC.
- Congress should request from the Administration and the GAO an examination of how the ICRC spends U.S. taxpayer dollars to determine whether the entire annual U.S. contribution to ICRC headquarters, i.e., ICRC operations, is advancing American interests.
- Additionally, Congress should request that: the State-Defense-Justice Departments jointly certify that the ICRC's operations and performance have been in full accord with its Geneva Conventions' mandate; the Administration strongly advocate for full transparency of all ICRC documents relating to the organization's core and non-core activities; and the Administration argue for a change in the ICRC's statute so as to allow non-Swiss officials to be part of the organizing and directing bodies of the ICRC.

Introduction

As Congress scrutinizes how the United Nations operates, it is both timely and appropriate that similar scrutiny be directed toward other multilateral organizations funded by the American taxpayer. One of those organizations that demand such an examination is the International Committee of the Red Cross (ICRC). For decades, the ICRC has been an entity largely free of scrutiny by Congress due to the popular perception that it is an impartial organization conducting vital emergency relief as well as by the noncontroversial, founding “Seven Fundamental Principles” by which it has operated: humanity, impartiality, neutrality, independence, voluntary service, unity, and universality.

In recent years, however, actions taken by the ICRC to broaden its non-emergency relief operations’ portfolio and engage in activism appear to contradict some of the ICRC’s founding principles of being a neutral and impartial organization. In some cases, actions and statements by the ICRC have run contrary to the interests of the American taxpayer, the ICRC’s single largest donor. Specifically, the ICRC has engaged in efforts to:

- reinterpret and expand international law so as to afford terrorists and insurgents the same rights and privileges as military personnel of States Party to the Geneva Conventions;
- lobby for arms control issues that are not within the organization’s mandate, e.g., the reinterpretation of the Chemical Weapons Convention and banning land mines; and
- inaccurately and unfairly accuse the United States of not adhering to the Geneva Conventions, when the ICRC itself has demonstrated reluctance to ensure that Geneva Convention protections are afforded to U.S. prisoners of war.

Such actions by this revered and historical institution are worrisome. The ICRC, which has helped save American lives in two world wars, appears to have lost its way under its current leadership by deviating from its core principles. Arguably, when it comes to non-emergency relief operations, the ICRC is no longer an impartial and trustworthy guardian: it has become yet another clamoring interest group like Amnesty International, a status which can only weaken the ICRC and sap its credibility. Moreover, the ICRC’s behavior has exerted a very powerful negative influence both on how the U.S. defense and foreign policy is perceived by other countries and on how the U.S. government carries out these activities.

This paper will briefly examine the ICRC as an institution and the functions it performs, and also explain the relationship between various international (or non-U.S.) Red Cross entities and the American Red Cross. It will highlight some of the ICRC’s recent non-emergency relief actions that have put the ICRC at odds with its own fundamental principles and that have negatively affected U.S. policies and interests. And, finally, the paper will offer a few options for determining if, in fact, the ICRC is disserving American interests — and, if so, what U.S. policymakers can do to address such behavior and put the organization back on the path of impartiality and neutrality.

Background

The ICRC, the “Movement,” and the “Federation”

The ICRC was established in 1863 in Geneva, Switzerland (which remains its headquarters) as an “impartial, neutral, and independent organization whose exclusively humanitarian mission is to protect the lives and dignity of victims of war and internal violence and to provide them with assistance.”¹ According to the ICRC’s own mission statement — and as mandated specifically by the Geneva Conventions — it directs and coordinates international relief activities conducted by the Movement in situations of conflict.²

Specifically, the ICRC endeavors to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles. As part of its mission, the ICRC is mandated to engage in the following activities: visit prisoners of war and security detainees; search for missing persons; transmit messages between separated family members; reunite dispersed families; provide safe water, food, and medical assistance to those in need; promote respect for international humanitarian law; monitor compliance with that law; and contribute to the development of that law.³ Among the ICRC’s historical successes have been the adoption of The Hague Conventions (which established laws and customs of war on land) and the Geneva Conventions (which established universal standards of treatment for wounded and captured soldiers). As of 2003, the ICRC maintained a presence in 79 countries around the world with a staff of more than 12,000 people, and with the majority of its activities occurring in Africa and the Middle East.⁴

The International Red Cross Movement is an umbrella term that refers to all the organizations, national and international, allowed to use the Red Cross emblem (the Red Crescent emblem in Moslem countries).⁵ The mission of the Movement is to “prevent and alleviate human suffering wherever it may be found, to protect life and health and ensure respect for the human being, in particular in times of armed conflict and other emergencies, to work for the prevention of disease and for the promotion of health and social welfare.”⁶ The International Federation of Red Cross and Red Crescent Societies, originally known as the League of Red Cross Societies, was founded in 1919 by American Henry Davison to address post-World War I humanitarian issues. The ICRC leadership at the time decided that such issues were beyond its mandate.

Although the ICRC is a founding member of the International Red Cross and Red Crescent Movement, it is governed by its own rules and procedures that cannot be overturned by its other members. Those other members are the more than 180 national Red Cross and Red Crescent societies whose legal status must be acknowledged by the ICRC even before they can

¹ International Committee of the Red Cross, “The ICRC’s Mission Statement,” January 7, 2005.

² International Committee of the Red Cross, “The ICRC’s Mission Statement,” January 7, 2005.

³ ICRC, “ICRC In Action,” <http://www.icrc.org/Web/Eng/siteeng0.nsf/html/p0728?OpenDocument>.

⁴ ICRC, “The ICRC Worldwide 2003,” June 26, 2004.

⁵ American Red Cross, “Organizations of the Red Cross and Red Crescent Movement,” <http://www.redcross.org/museum/history/organizations.asp>.

⁶ American Red Cross, “Organizations of the Red Cross and Red Crescent Movement,” <http://www.redcross.org/museum/history/organizations.asp>.

join their membership organization, the International Federation of the Red Cross and Red Crescent Societies.

The ICRC is governed by an Assembly (the supreme governing body which oversees all ICRC activities), an Assembly Council (a subsidiary body of the Assembly, to which the latter delegates some responsibilities), and a Directorate (the executive body which is responsible for applying and ensuring application of the general objectives and institutional strategy defined by the Assembly or the Assembly Council).⁷ The ICRC's 22-member Assembly is selected by existing members and is composed solely of Swiss nationals.⁸

All of the ICRC's activities are funded through voluntary contributions, mainly from individual governments; international organizations (such as the UN and the EU); national societies; and public and private sources. The ICRC's 2003 annual expenditures were \$684.8 million, of which \$115.7 million were for headquarters and \$569.1 million were for field operations.⁹

Relationship Between the American Red Cross and the ICRC

There is a common misunderstanding that the American Red Cross (ARC) and the ICRC are the same organization. They operate separately from one another. The American Red Cross, though a member of the Federation, has no membership rights in the ICRC nor does any other national Red Cross or Red Crescent Society. The American Red Cross voluntarily gives money to ICRC. Neither the American Red Cross nor any other Red Cross or Red Crescent Society is consulted by the ICRC, and none of them are in any way involved in the ICRC's policy decisions and statements.

The ARC was founded in 1881 to serve America in peace and in war, during times of disaster and national calamity. According to its Congressional Charter, adopted in 1905, the American Red Cross is specifically mandated to "carry out a system of national and international relief in time of peace, and apply that system in mitigating the suffering caused by pestilence, famine, fire, floods, and other great national calamities, and to devise and carry out measures for preventing those calamities."¹⁰

The American Red Cross also works with a global network of Red Cross, Red Crescent, and equivalent societies to restore hope and dignity all around the world. The ARC is currently working with sister societies to provide assistance and supplies, including food, clean drinking water, and health and counseling services, to disaster and other victims. Since 1999, the American Red Cross has responded with cash, supplies, and highly trained personnel to more than 30 emergencies in 30 countries, and has assisted 4.5 million people in 19 countries with food interventions.¹¹

⁷ ICRC, "ICRC Decision-Making Structures," February 1, 2005.

⁸ ICRC Statute, Article 7, paragraph 1, "the ICRC shall co-opt its members from among Swiss citizens."

⁹ ICRC, "Annual Report 2003," June 26, 2004.

¹⁰ American Red Cross, "Frequently Asked Questions," http://www.redcross.org/faq/0,1096,0_315_,00.html#382.

¹¹ ARC, "International Services: Emergency Disaster Response"; ICRC, "International Services: Food Programming."

The American Red Cross occasionally receives U.S. federal and state support for some components of its core programs in the form of appropriations and competitively bid grants. Services receiving funding have included emergency communication, disaster relief, preparedness, Biomedical Services research and development efforts, international relief, and various local chapter programs. The American Red Cross also receives reimbursement from the Federal Emergency Management Agency (FEMA) for the provision of transient accommodation during disasters. In any given year, the amount of federal money received does not exceed 4-5 percent of the American Red Cross's annual budget.¹²

The ICRC and U.S. Government Funding

The United States government has remained the ICRC's single largest contributor since its founding. In 2003, U.S. government contributions totaled approximately \$233 million, accounting for 25.8 percent of all contributions received and 28 percent of all contributions received for field operations.¹³ Since 1990, the U.S. Government has provided more than \$1.5 billion to the ICRC.¹⁴ Thus far in FY2005, the U.S. State Department has contributed \$107 million. Interestingly, Great Britain, Switzerland, and the European Commission are the next three largest donors to the ICRC budget, each providing approximately one-third to one-half of the U.S. contribution.

It should be noted that the ICRC, and therefore the Red Cross Movement, does not recognize the Magen David Adom (MDA) Society of Israel as an official national society because the Star of David, the MDA's symbol, is not an ICRC officially sanctioned emblem. Since 2002, a restriction has been included in the ICRC's appropriation, stating that funds *only* be made available for a contribution to ICRC headquarters (as opposed to its field operations) if the Secretary of State determines (and so reports to the appropriate committee of Congress) that the Magen David Adom Society of Israel is not being denied participation in the activities of the International Federation of the Red Cross and the Red Cross Movement. The Secretary has submitted such a determination every year, and full funding has been provided to the ICRC headquarters. Since 1957, the MDA has been an observer to the International Federation. In 2003, the ICRC and the MDA signed a cooperation agreement.

How the ICRC Has Lost Its Way

During recent years, the ICRC has undergone a significant and accelerating change whereby it has become more responsive to the preferences of the liberal and frequently anti-American international nongovernmental organization community. Reflective of this has been the ICRC's active involvement in undertaking policy advocacy on numerous issues increasingly unrelated to its core mission and in opposition to the national interests of some of its largest donors, including and especially the United States — its largest donor. The ICRC has spent millions on its efforts to completely ban anti-personnel mines, and, during 2001-2002, additional millions of dollars to try to ban cluster munitions.¹⁵ It is also spending monies in an effort to reinterpret the Chemical Weapons Convention in such a manner so as to deny American soldiers

¹² American Red Cross, "Frequently Asked Questions," http://www.redcross.org/faq/0,1096,0_315_,00.html#382.

¹³ ICRC, "Annual Report 2003," June 26, 2004.

¹⁴ U.S. State Department, Bureau of Population, Refugees, and Migration, "ICRC Contributions," May 16, 2005.

¹⁵ Remarks made by ICRC President Jakob Kellenberger during the Second Review Conference of the 1980 Convention of Certain Conventional Weapons on December 11, 2001 in Geneva, Switzerland.

the use of riot control agents (i.e., tear gas) on the battlefield in a defensive mode to save lives (both those of U.S. and allied soldiers and of innocent civilians).¹⁶

What this really symbolizes, though, is a conscious decision by its current leadership to move the ICRC away from its founding principles of neutrality and impartiality. Moreover and more importantly for the U.S. taxpayer, the ICRC's recent actions are being conducted contrary to U.S. interests. Some of the examples include the following:

On Humanity

According to two leading analysts, the ICRC made "no discernible effort" to improve the lot of America's POWs from the Korean, Vietnam, and Iraq wars.¹⁷ This failure was despite its being pressed by the U.S. government and POW families. For example, the ICRC's Central Tracing Agency contains numerous U.S. government requests for information relative to individual POWs in North Vietnam that were not acted upon.¹⁸ Significantly, the ICRC has also conspicuously failed to criticize the North Vietnamese, North Korean, and Baathist Iraqi governments for their torture, killings, and other abuses of U.S. POWs.

On Neutrality and Impartiality

Instead of applying existing international law (which is developed through actions of sovereign states), the ICRC has been advancing new international legal principles and norms that are extremely deleterious to the interest of the United States and other countries governed by codified international humanitarian law. These actions by the ICRC include the development of both Protocol I Additional to the Geneva Conventions of 1949 and Protocol II Additional to the Geneva Conventions of 1949. These protocols were formulated in 1977 by an International Conference of States Signatory to the Geneva Conventions. Successive U.S. Administrations, though receptive to the provisions of Protocol II, have declined to recommend ratification by itself since Protocol I treats insurgents and terrorists the same as it does uniformed soldiers and, thus, would afford them the same medical and legal treatment as regular soldiers.

Just recently, the ICRC has released its so-called customary international law study, which goes even beyond Protocol I. The totality of the ICRC's "law-making" effort produces a legal environment that advantages rogue states and terrorist movements and disadvantages the militaries of law-abiding states in general and the U.S. military in particular. This goes way beyond such issues as the conditions of detention and interrogation of captured enemy combatants, and includes such other key aspects of the laws of war as the permissible extent of collateral damage, principles of command responsibility, the question of scope of self-defense in general, and the propriety of preemptive/anticipatory self-defense in particular.¹⁹

Former Secretary of Defense James Schlesinger has been critical of the ICRC in his report, prepared as a part of an independent review of Guantanamo and Abu Ghraib-related

¹⁶ Statement by the ICRC at the Chemical Weapons Convention Review Conference in Geneva, Switzerland on April 29, 2003.

¹⁷ Lee A. Casey and David Rivkin, Jr., "Double Red-Crossed," *National Interest*, Number 79, Spring 2005.

¹⁸ Lee A. Casey and David Rivkin, Jr., "Double Red-Crossed," *National Interest*, Number 79, Spring 2005.

¹⁹ Lee A. Casey and David Rivkin, Jr., "Leashing the Dogs of War," *National Interest*, Number 73, Fall 2003; Lee A. Casey and David Rivkin, Jr., "Double Red-Crossed," *National Interest*, Number 79, Spring 2005.

problems, arguing that the ICRC's legal and policy positions were fundamentally wrong and detrimental to the United States' interests. In particular, the report noted the ICRC's insistence on the applicability of Protocol I (relating to the protection of victims of international armed conflicts) despite the United States long-standing position that following portions of the Protocol "would grant legal protections to terrorists equivalent to the protections accorded to prisoners of war as required by the Geneva Conventions of 1949 despite the fact terrorists do not wear uniforms and are otherwise indistinguishable from noncombatants."²⁰ Further, the report noted that the ICRC – taking issue with the designation "unlawful combatants" – has failed to recognize the changing nature of war by not acknowledging that some combatants by their actions fail to achieve the privileged status the Geneva Convention affords lawful combatants.²¹

In essence, the fundamental problem when it comes to U.S. interests is that the ICRC takes the position that Protocol I (and Protocol II, along with any other international humanitarian treaty to which the United States is NOT a party) form part of a "corpus" of international humanitarian law that is binding on all states (having achieved the status of customary international law) — whether the state is a party to the relevant treaties or not. In other words, the ICRC maintains that the United States has obligations under international humanitarian law that go far beyond the obligations that the U.S. government recognizes under its ratified treaties.

As a result, the ICRC effectively no longer serves as the guardian of obligations that have been accepted under a ratified treaty or treaties. Rather, it has become an aggressive advocate — like Amnesty International — for enforcing a broader set of obligations, whether nations have ratified relevant treaties or not. This is a massive change that accounts for much of the tension today between the ICRC and the United States government. It is also the problem underlying the International Criminal Court, which claims jurisdiction over nations that have not ratified the Rome Statute.

Of additional concern is the fact that the ICRC seems to drop its neutrality when it comes to U.S. issues. According to the *Wall Street Journal* (citing a Defense Department source), an ICRC official on a visit to a U.S.-run Iraqi prison told U.S. authorities that "you people are no better than and no different than the Nazi concentration camp guards."²² Her comments came as a result of U.S. commanders' decision to deny her immediate access to the prison (for personal safety reasons) that had just witnessed a prison riot.

Finally, the ICRC's confidentiality principle appears not to be adhered to when it comes to U.S. issues. The ICRC itself has stated that, in order to gain access to detention facilities to ensure decent conditions for prisoners, it agrees to a policy of confidentiality, i.e., discussing problems related to the facilities only with the authorities directly concerned.²³ Moreover, the ICRC's "discreet approach, in which its findings are reported only to the authority concerned,

²⁰ Independent Panel to Review DoD Detention Operations, "Final Report of the Independent Panel to Review DoD Detention Operations," August 2004, p. 86.

²¹ Independent Panel to Review DoD Detention Operations, p. 87.

²² *Wall Street Journal* Editorial, "As Bad as the Nazis? What the Red Cross Thinks about the U.S. Military," May 23, 2005.

²³ ICRC, "Frequently Asked Questions: ICRC doesn't publish its reports on prison visits - how can working confidentially be effective in preventing torture?" November 15, 2002.

combined with its professional expertise and neutrality, form the key elements in persuading those in power to adopt, where necessary, more humanitarian measures.”²⁴

However, as the *Wall Street Journal* editorial board recently wrote, the ICRC tends to “hide behind the confidentiality rule when being candid might embarrass its own officials. But it drops the same rule when it is in a position to embarrass the United States, however unfairly.”²⁵ The newspaper was referring to incidents during the last two years in which the ICRC leaked its own confidential reports provided to the U.S. government regarding Guantanamo Bay detainee allegations, and then, using the fact that they were now in the public domain, added further comments and observations in talking to reporters. Although the ICRC spokesman did not confirm that the ICRC leaked these reports or provided these reports to other sources, the spokesman admitted, “Since these reports have become public in other channels, and because of their impact in Afghanistan and around the world, we decided we could report that we had brought this to authorities’ attention.”²⁶ Thus, the ICRC decided to breach its confidentiality clause by publicly talking about — and deliberately revealing—the contents of documents and opinions it sent to the U.S. government regarding alleged detainee abuses.

Policy Options

Congress should lead the way in requesting from the Administration, as well as from its own internal auditor, the Government Accountability Office (GAO), an examination of how the ICRC spends U.S. taxpayers’ dollars. The purpose of the review should be to determine whether the entire annual U.S. contribution to ICRC headquarters, i.e., ICRC operations, is advancing American interests.

In order to make such a determination, a formal U.S. government review of the ICRC should include the following: Congress should request that the State Department, which provides U.S. contributions to the ICRC, and the Defense Department, which is greatly affected by the ICRC’s policies and actions, jointly with the Department of Justice, certify that during each fiscal year, “the ICRC has been operating in full accord with relevant ICRC principles (contained in the Fundamental Principles of the International Red Cross and Red Crescent Movement Handbook), including, but not limited to, the principles of neutrality, impartiality, and humanity.” This certification should also feature an affirmation that the ICRC’s operations and performance have been in full accord with its mission statement and Geneva Convention’s mandate. The logic behind having a multi-departmental certification is to ensure that relevant departments’ equities are being advanced.

Congress should also request that the GAO conduct an audit focusing on the operations of the ICRC headquarters. This audit should determine how much money is being spent by the ICRC on non-core activities, i.e., activities that have little or nothing to do with the Geneva Conventions. GAO should also inquire into how the ICRC ensures that its activities comport with the above-referenced “ICRC mandate.”

²⁴ ICRC, November 15, 2002.

²⁵ *Wall Street Journal* Editorial, May 23, 2005.

²⁶ *Washington Post*, “Red Cross Says It Told U.S. in 2002 About Alleged Mishandling of Koran,” May 20, 2005.

If the GAO audit determines that the ICRC is spending its headquarters' monies on non-core activities and a joint State-Defense-Justice Department certification cannot be made, U.S. policymakers will be faced with the key question of whether to continue to provide the ICRC's headquarters with full funding, to reduce the funding until the ICRC modifies its practices to both reflect both impartiality and respect for contributors' views and goals, or to withhold headquarters' funding to the ICRC and, instead, provide such monies to other entities, including U.S. agencies, U.S. nongovernmental organizations, or international charities that can better fulfill missions that reflect interests and concerns of Americans. At a minimum, the United States should demand that the ICRC change its behavior and adhere to its "impartiality" principle. It should be noted, however, that it would not be in the U.S. interest to withhold funding to the ICRC's field operations given that the ICRC plays a critical role in delivering humanitarian relief and assistance around the world.

In addition to these reviews, Congress should request the Administration to strongly advocate for full transparency of all ICRC documents relating to the organization's core and non-core activities. As a recent example of the merit of such an action, one need only review what happened when Congress made the same request (via an amendment to the FY05 Defense Authorization bill) of the Administration regarding U.N. documents relating to the Oil-for-Food scandal: within months, the U.S. Mission to the U.N. had secured troves of documents that have been made available to Congress. In order to accomplish this, in December 2003, the United States had secured passage of a U.N. Security Council resolution requiring all U.N. documents to be shared with Member States. By allowing such transparency, major ICRC contributors, as well as the other interested parties, can determine how the ICRC is or is not adhering to its fundamental principles and how taxpayer monies are being spent. If the ICRC refuses, Congress should consider withholding part or all of the annual U.S. contribution to the ICRC's headquarters.

Congress should also request that the Administration, along with leading ICRC contributing countries, strongly push for a change in ICRC's statute so as to allow non-Swiss officials to be part of the organizing and directing bodies of the ICRC. It is undemocratic for the American people to provide their own tax dollars to an organization that does not allow U.S. officials to be represented at the leadership level. Related to this, if the ICRC were to allow non-Swiss representatives in the organization's leadership structure, the national representatives should be proportional to the donor's funding level. Should the ICRC refuse, Congress should consider withholding part or all of the annual U.S. contribution to the ICRC's headquarters.

Finally, with regard to POW issues, Congress should consider establishing its own informal congressional advisory group made up of U.S. military personnel and veterans that would occasionally review ICRC's actions in following up on U.S. POW and MIA cases. However, this would only be effective if the ICRC agrees to open its files to donor countries.

Conclusion

During the past few decades, the ICRC has delivered emergency relief supplies to hundreds of thousands of starving, diseased, and other conflict-affected people around the world. For this, the ICRC deserves praise and recognition. However, in recent years the ICRC, under its current leadership, has adopted an approach toward the United States that not only appears to violate the organization's "impartiality" doctrine, but also clearly is in direct opposition to the

advancement of U.S. interests. For this, the ICRC needs to be scrutinized and its actions addressed.

Given the post-September 11th strategic environment and the continuing military operations in Afghanistan and Iraq, as well as the increased tempo of global intelligence, covert operations, and military activities, the ICRC's behavior is exerting a very powerful influence both on how U.S. defense and foreign policy is perceived by other countries and how the U.S. Government carries out these activities.

Congress and the Administration owe the American taxpayer — and, specifically, the American soldier — a thorough examination of how the ICRC currently works and how the ICRC is advancing America's interests. The result of this examination will lend clarity to the debate regarding whether the United States should continue to be the ICRC's largest single contributor — and whether the ICRC can truthfully claim to be an "impartial" organization.